THE HON'BLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.20609 OF 1999

DATE: 07-12-2005

Between:

K. Narayana S/o. Rajamallu,

aged about 29 years, R/o. Karimnagar District.

.. Petitioner

AND

The Managing Director, A.P.S.R.T.C.,

Musheerabad, Hyderabad & 3 others

.. Respondents

THE HON'BLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.20609 OF 1999

ORDER:

This writ petition is filed seeking Writ of *Mandamus* declaring the action of the respondents in passing the impugned order, dated 17-12-1992, withholding one increment with cumulative effect as illegal, arbitrary and unjust and consequently direct the respondents to fix the pay by adding one increment and pay the consequential benefits to the petitioner which was deducted in pursuance of the impugned order.

The case of the petitioner is that he is employed as Conductor in A.P. State Road Transport Corporation (for short 'Corporation') on 25-09-1990 and his services were regularized with effect from 17-08-1992. Whileso, on 11-4-1992 when he was on duty on route Oded, a check was conducted by the Corporation officials at Stage No.6/7 and though there was no irregularities on his part, the checking officials foisted a case against him alleging that a lady passenger was travelling without ticket and a charge sheet was issued to which he submitted explanation denying the charges framed against him. The 3rd respondent-Depot Manager, APSRTC, Godavarikhani Depot, Karimnagar District, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of withholding one increment with cumulative effect. Aggrieved by the same, he filed appeal before the Deputy Chief Traffic Manager and the same was rejected by the order, dated 13-02-1996, against which he preferred review and the 2nd respondent-Regional Manager, APSRTC, Karimnagar Region, Karimnagar District, without following the procedure prescribed under the APSRTC Regulations and without conducting any enquiry rejected the review petition by the order, dated 19-02-1998, hence this writ petition.

Heard the learned counsel for both the parties and perused the material available on record.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in ***Kuswanth Singh Gill v. State of Punjab.*** Learned counsel also relied on the judgment of a learned single Judge of this Court in W.P.No.20411 of 2005, dated 16-09-2005, which is in a similar background of facts and circumstances.

It is an admitted fact that the 3rd respondent imposed punishment of deferment of one increment with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in **Kulwanth Singh Gill's Case** (Supra 1) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of one increment was imposed without conducting regular departmental enquiry violating the judgment of the Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to the 3rd respondent to pass fresh orders. But to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel agreed that instead of remitting the matter to the 3rd respondent for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of one annual increment without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 17-12-1992, passed by the 3rd respondent, imposing punishment of stoppage of one increment with cumulative effect, is modified to that of stoppage of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only. No costs.

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N.V. RAMANA, J

Date:07-12-2005.

PV